

# HOUSE BILL REPORT

## HB 2333

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**As Reported by House Committee On:**  
Technology, Telecommunications & Energy  
Appropriations

**Title:** An act relating to energy efficiency and renewable energy.

**Brief Description:** Concerning energy efficiency and renewable energy standards.

**Sponsors:** Representatives Hudgins, Schual-Berke, O'Brien, Upthegrove, Wood, Ruderman, Chase, Murray, Sullivan, Hunt, Simpson, G., Haigh and Morrell.

**Brief History:**

**Committee Activity:**

Technology, Telecommunications & Energy: 1/14/04, 2/4/04 [DPS];  
Appropriations: 2/9/04, 2/10/04 [DPS(TTE)].

**Brief Summary of Substitute Bill**

- Establishes an energy efficiency standard that becomes effective in 2006 for electric utilities, other than small electric utilities, and full requirements customers of Bonneville Power Administration.
- Establishes a renewable energy standard that becomes effective in 2010 for electric utilities, other than small electric utilities, and full requirements customers of Bonneville Power Administration.

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### HOUSE COMMITTEE ON TECHNOLOGY, TELECOMMUNICATIONS & ENERGY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Morris, Chair; Ruderman, Vice Chair; Sullivan, Vice Chair; Nixon, Assistant Ranking Minority Member; Blake, Hudgins, Kirby, Romero, Tom, Wallace and Wood.

**Minority Report:** Do not pass. Signed by 6 members: Representatives Crouse, Ranking Minority Member; Anderson, Bush, Delvin, McMahan and McMorris.

**Staff:** Pam Madson (786-7166).

**Background:**

In Washington, most of the electricity sold to retail customers is generated by hydroelectric power. According to the state's fuel mix disclosure report using 2002 actual data,

hydroelectric power accounts for 71.6 percent of electricity sold; coal represents 13.5 percent; nuclear power supplies 5 percent; cogeneration 5.1 percent, natural gas 3.4 percent. Non-hydro renewable resources such as wind, landfill gas, or biomass represents 1.3 percent.

Traditionally, electric utilities have been guided in their efforts to acquire resources for meeting their customers' demand for electricity by a least cost planning analysis. Utilities choose a mix of supply and demand side resources that minimizes the cost of services to the customer. The mix may include electricity that is generated by the utility itself, purchased on long-term contracts from other producers, or may include some electricity purchased on the short-term or spot market. It may also include conservation and energy efficiency.

The Bonneville Power Administration (BPA) sells wholesale electric power to utilities for resale generated by the federal hydroelectric dams that are part of the Federal Columbia River Power System, a nuclear facility and other nonfederal power plants.

Beginning January 1, 2002, all electric utilities (other than small electric utilities) had to offer their customers an option to purchase electricity generated using alternative energy resources. This was a voluntary approach to encouraging the use and development of electricity generation using a mix of renewable resources. The Department of Community, Trade, and Economic Development (DCTED) and the Utilities and Transportation Commission must report annually on the products offered to customers, customer participation, and the investments made by each utility in qualifying alternative energy resources.

Though the Pacific Northwest has had some of the most successful conservation and research programs in the country, the history of investment in conservation and energy efficiency is not one of stable, consistent investment. Investment in energy efficiency in Washington peaked in 1993 at approximately \$155 million and declined to an estimated \$44 million in 1998. A report from the Northwest Power and Conservation Council released in early 2003 on energy conservation indicates that 2001 was the largest annual development of conservation since 1993. About \$150 million was spent in new energy conservation activities and the region achieved energy savings of about 150 megawatts.

Some utilities offer reduced rates or discounted charges to low-income customers. Assistance to low-income energy customers is also provided through a federal block-grant program, known as LIHEAP (Low-Income Home Energy Assistance Program), that allocates funds to the states. This program is administered by the DCTED. The DCTED also administers a weatherization program to reduce the cost of housing for low-income households by applying energy efficiency measures to a home.

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### **Summary of Substitute Bill:**

An energy efficiency standard and a renewable energy standard are established that apply to public and private electric utilities except small utilities and full requirements customers of BPA. The energy efficiency standard is effective beginning in 2006 and the renewable energy standard is effective beginning in 2010.

### ***Integrated Resource Plans***

Electric utilities are required to develop integrated resource plans that describe the mix of generating resources and improvements in efficient use of electricity to meet current and future needs at the lowest reasonable cost to its ratepayers. The investor-owned utilities must submit plans to the Washington Utilities and Transportation Commission and the consumer-owned utilities must provide a copy of the plan to the Department of Community, Trade, and Economic Development.

### ***Energy efficiency standard***

Under the energy efficiency standard, electric utilities are directed to produce energy savings each year. The energy savings targets are addressed in phases.

- Beginning in 2006 through 2009, the annual target is .75 percent of the utilities retail load using 2005 as the base year. At the end of 2009, the total energy saved from conservation programs compared to the preceding five years must be at least 3.0 percent of each utility's 2005 retail load.
- For the three year period, 2010 through 2012, the annual target is .85 percent of the utilities retail load using 2009 as the base year. During this three year period, the total energy saved from conservation programs must be 2.55 percent.
- For each three year period thereafter, the annual target is .85 percent with a total of 2.55 percent over that time, using the retail load for the year prior to the three year period as the base year.

Utilities can meet the energy efficiency standard using new activities and receiving credits for participation in other programs. Five percent of the standard must be met with low-income efficiency services unless the utility can show that this level of low-income conservation opportunities do not exist in its service territory.

Utilities may also meet the energy efficiency standard by counting conservation for which it receives credit or funding from BPA conservation programs. Up to 15 percent of a utility's or market customer's annual energy efficiency standard may be met using high-efficiency co-generation.

Conservation programs in a utility's portfolio must be cost-effective. A utility may demonstrate that it is unable to meet the standard because of a lack of sufficient opportunities to acquire conservation and petition to apply a lower standard.

### ***Renewable energy standard***

Under the renewable energy standard, electric utilities are directed to incrementally increase the percentage of eligible renewable resources used to generate electricity to serve their retail electric load. The renewable energy standard is increased in phases.

- For the five year period beginning in 2010 through 2014, each electric utility must use electricity generated from renewable resources or renewable energy credits to serve at least 5 percent of its annual retail load.

- For the next eight year period ending in 2022, the percentage of the annual retail load supplied by electricity generated using renewable resources or renewable energy credits increases to at least 10 percent.
- For 2023 and beyond, the goal is at least 15 percent.

Renewable resources include water, wind, solar, geothermal, landfill gas and gas from a sewage treatment plant, biomass from animal waste, solid organic fuels from wood, forest residue, or energy crops, and wave or tidal power. Not all electric generation using renewable resources is eligible to meet the standard. Resources are limited by date of operation or upgrade for a facility and, in some cases, its geographic location.

An electric utility may meet the renewable energy standard by counting electricity from renewable resources for which it receives credit under BPA conservation and renewable programs and from renewable resources that are part of the BPA electricity portfolio. An electric utility may not include electricity generated from renewable resources provided to customers through optional pricing programs (green options programs). However, a utility may discontinue compliance with the green options program if it acquires sufficient renewable resource generation to meet 5 percent of its retail load.

A utility may receive enhance credit for early acquisition of renewable resources located in Washington and for renewable resources acquired from facilities constructed using apprenticeship programs.

If an electric utility is unable to meet its goal using renewable resources or renewable energy credits costing \$45 per MW hour or less, it may petition to meet a lower standard. The cost cap of \$45 per MW hour is adjusted annually.

Electricity generated by a utility through distributed generation used to serve the customer's electricity needs may count towards meeting both standards.

Electricity or efficiency from resources used by a utility to meet a federally legislated standard may be used to meet both standards but not electricity used to meet a standard established through legislation in another state.

The DCTED, in the case of a consumer-owned utility, and the Utilities and Transportation Commission (UTC), in the case of an investor-owned utility, must verify that a utility has met the requirements for the energy efficiency standard and the renewable energy standard. The DCTED and the UTC must include the unachieved cost-effective conservation in the report to the Legislature.

### ***Compliance and monitoring***

The DCTED, along with stakeholders and the Utilities and Transportation Commission (UTC), must develop criteria to determine cost-effective conservation, develop a definition of high-efficiency cogeneration that includes technological improvements over time, establish annual goals for acquisition of renewable resources, and select an existing system of renewable energy credits.

Utilities must demonstrate progress toward meeting the two standards by June 2007. By June 2010, and annually thereafter, they must demonstrate compliance with the standards. By December 2010, and biennially thereafter, the DCTED and the UTC must report to the Legislature on compliance with the standards. The standards will be reviewed by January 2016.

**Substitute Bill Compared to Original Bill:**

The substitute bill requires electric utilities to develop integrated resource plans that describe the mix of generating resources and improvements in efficient use of electricity to meet current and future needs at the lowest reasonable cost to its ratepayers. The investor-owned utilities must submit plans to the Washington Utilities and Transportation Commission and the consumer-owned utilities must provide a copy of the plan to the Department of Community, Trade, and Economic Development. The substitute bill exempts full requirements customers of the Bonneville Power Administration from the provisions of the act; and deletes market customers and removes the Northwest Energy Efficiency Alliance from the provisions of this act. For utilities that have not had an increase in retail load growth for five years, an exemption from the standards may be requested. The Department of Community, Trade and Economic Development, in the case of a consumer-owned utility, and the Utilities and Transportation Commission, in the case of an investor-owned utility, must verify that a utility has met the requirements for the energy efficiency standard and the renewable energy standard.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** This bill is about creating jobs, providing revenue for family farms, and cleaning up the environment. This is an issue that can bring both sides of the state together. It will create jobs in rural communities. Maintaining and expanding a clean energy industry can be the basis for economic development. There is an undeveloped potential in this state to use biomass to produce electricity. Renewable energy projects provide tax revenue in local jurisdictions. This bill helps provide self-sufficiency by producing electricity here and not sending dollars out of state to purchase natural gas for energy production. Renewable energy keeps rate payers money in the state and creates more local jobs. Other states have been successful in attracting renewable energy generation through the use of renewable energy standards. The changes that have been made in this bill from the bill introduced last year makes this bill stronger and represents many discussions with all interested parties. There is an incredible interest in having renewable energy on the farm. This bill will help ensure a long-term stable market for renewable energy generation. A stable market will attract the large investment necessary to encourage renewable energy production in this state. The cost cap helps alleviate concerns over supply and demand imbalances. The bill provides a seven

year planning period before the standard takes effect. There should be a separate cap for green tags.

**Testimony Against:** The policy should be to incent the market not require the market. If there are barriers to competition, then the legislature should address that issue or if the problem is siting, that issue should be addressed. Qualified renewable energy resources are, in the current market, high cost items and the cost will be passed on to customers. Many industries are struggling to make it. Small utilities are exempt from the standards in the bill but market customers are expected to meet the standards and are treated like a utility. Participation in green power programs doesn't count toward the standard but it is a voluntary, market based program.

(With concerns) The energy industry is complex and there may be unintended consequences. Here are a couple of examples. To meet the standard, a utility may be required to sell off existing facilities. There may be upward rate pressure because of trying to meet the standards. This is a one size fits all approach and no two utilities are alike. Standards must be met whether a utility has any load growth or not. It doesn't recognize utilities that currently use renewable resources. Cost of renewable power is dropping as a result of the market and will be developed with or without this bill. Utilities' integrated resource plans show that the standard may be met or exceeded without the bill. Utilities are investing in renewable resources and need incentives to do more. The standards should apply to the need of the utility to supply electricity, or load growth, rather than forcing the acquisition of resources that may displace existing resources. Cost recovery is a serious issue especially for multi-state companies. Efficiency is also a concern because it involves customers' support in using efficiency methods. Customers make that decision, not the utility.

**Persons Testifying:** (In support) Representative Hudgins, prime sponsor; Nancy Hirsh, Northwest Energy Coalition; Jim Lazar; Randy Smith, NW Sustainable Energy for Economic Development; Scott Kringen, Vestas-American Wind Technology; Chris Taylor, Zilkha Renewable Energy; Craig Engelking, Sierra Club; Geoff Glass, Providence St. Peter Hospital; David Allen, McKinstry Co.; John Littel, Seattle/King County Building and Construction Trades; Toni Potter, League of Women Voters of Washington; Virinder Singh, PacifiCorp; Andy Silber, Sierra Club; Juelle Robinsen, Climate Solutions; Mardell O'Moore; Eldon Ball, Sierra Club; and Robert Prugulman, Washington State Public Interest Research Group.

(With concerns) Bruce Folsom, Avista Utilities; Mike Tracy, Puget Sound Energy; Dave Warren, WA PUD Association; Jack Speer, ALCOA Inc.; and Dave Clinton, Washington Rural Electric Cooperative Association.

(Opposed) Kristen Sawin, Association of Washington Business; and Tim Boyd, Industrial Customers of Northwest Utilities.

**Persons Signed In To Testify But Not Testifying:** None.

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The substitute bill by Committee on Technology, Telecommunications & Energy be substituted therefor and the substitute bill do pass. Signed by 14 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Cody, Conway, Dunshee, Grant, Hunter, Kagi, Kenney, Linville, McIntire, Miloscia, Ruderman and Schual-Berke.

**Minority Report:** Do not pass. Signed by 13 members: Representatives Sehlin, Ranking Minority Member; Pearson, Assistant Ranking Minority Member; Alexander, Anderson, Boldt, Buck, Chandler, Clements, Cox, Kessler, McDonald, Sump and Talcott.

**Staff:** Holly Lynde (786-7153).

**Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Technology, Telecommunications & Energy:**

No new changes were recommended.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** This bill is about jobs, about helping family farmers, and creating economic development in rural areas. It is going to help bring down power prices all over the state over the next 20 years. The energy efficiency industry in this state is as big as the apple industry. Renewable energy resources can produce more than 40 percent of our power just in Eastern Washington alone. We want to help farmers in rural communities. The lease agreements are going to bring in between \$1,500 and \$4,000 a year for siting a wind turbine. We are also talking about more tax revenue for local counties and local school districts. This is a great way to create a more vibrant tax base. Other states have enacted similar standards. This bill is going to help us get out of the volatile energy markets. We send over 70 percent of our energy dollars out of the state for natural gas. We will now be able to create that power in-state using wind, solar, and biomass. There are no studies that show that this will raise prices but there are several studies that show that this actually helps lower costs. These are standards, not mandates. There could be a short-term cost to certain utilities, depending on how they are positioned in the market. An independent study indicated that such costs would be between .02 and .25 percent -of the cost of doing business for a utility. We have seen no evidence in other states of any businesses going out of business or utilities being hampered by this kind of legislation. On the contrary, they have been embraced and standards have been met ahead of time.

**Testimony Against:** Our opposition to the bill is based on the fact that we see it as a mandate. Even if there are no penalties in the bill, the court can enforce it and our stakeholders do not want to break the law. Public power in Washington is way ahead of the game in terms of acquiring renewables. Public power is doing more than its part in renewable energy because they see it as an energy source of the future. The bill does not recognize the

unique characteristics of each individual utility. Some of our utilities do not have load growth. If they have to buy 5 percent renewable energy in five years, they may have to displace some of the low-cost hydroelectric power that contributes to our low but increasingly higher electricity rates. We suggest looking toward load growth because this is a legitimate test about what is more cost effective in the market. The Integrated Resource Plan (IRP) requirement is redundant because we already know what resources we would be acquiring or a good portion of it. It is going to cost us money to write an IRP. We need to write an IRP or we need to look at acquiring renewables, but not both. We would also be regulated by CTED and that has never happened before. We do not think that the fiscal note of \$14,000 would provide effective regulation. We oppose being regulated by CTED. This bill creates high cost power that industrial, residential, and commercial customers will be required to buy. We are already paying unprecedentedly high rates in the marketplace. Many companies are attracted to the Northwest because of our cheap, renewable, hydroelectric power. We have lost our competitive advantage of cheap power at this point. The Legislature passed the Voluntary Green Power Program in 2001 and it is working; wind projects are being built and their costs are coming down. As they compete in the marketplace, those projects will be built without this bill.

**Persons Testifying:** (In support) Representative Hudgins, prime sponsor; and Steve Linstrom, NW Energy Coalition.

(Opposed) Tim Boyd, Industrial Customers of NW Utilities; and Dave Warren, Washington PUD Association.

**Persons Signed In To Testify But Not Testifying:** Roger Boatwright, Washington Buildings Trade; Kevin Hughes, RNP; Cliff Traisman, WCC/WCV; Collins Sprague, Avista Corporation; Dave Clinton, Washington Rural Electric Coop Association; Craig Engelkub, Sierra Club; and Rick Slunaker, Associated General Contractors.